

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

CASEY SCHULTZ,

08-CV-1095-BR

Plaintiff,

ORDER

v.

A & C TRUCKING I, LLC, a  
Washington limited liability  
company, and Alan R. Henning,

Defendants.

CASEY SCHULTZ  
2320 E. Baseline Road  
Suite 148-161  
Phoenix, AZ 84042-6951

Plaintiff *Pro Se*

TYSON L. CALVERT  
Lindsay Hart Neil & Weigler LLP  
1300 SW Fifth Avenue, Suite 3400  
Portland, OR 97201  
(503) 226-7677

Attorneys for Defendants

**BROWN, Judge.**

The parties were scheduled for a trial to the Court on December 27, 2010, but Plaintiff Casey Schultz failed to appear for trial. The Court held a hearing in lieu of beginning trial in which Plaintiff appeared by telephone. Plaintiff informed the Court that on December 23, 2010, the commercial truck he was driving broke down in or near Phoenix, Arizona, and required repairs. Plaintiff stated he had difficulty getting the needed repairs because of the holiday, and he could not abandon the truck because he was required to stay with the load that he was delivering to the Los Angeles, California, area. The Court construed Plaintiff's statement as an oral Motion to Continue the trial date.

Defendants objected to Plaintiff's Motion and sought verification of Plaintiff's stated grounds for missing trial and Plaintiff's stated residence in California. By Order (#65) issued on December 27, 2010, the Court granted Plaintiff's Motion and reset the trial for March 9, 2011, on condition that (1) Plaintiff provide Defendants no later than the close of business on December 30, 2010, "documentation, including a copy of the bill of lading, confirming the existence of the represented load, and . . . a copy of [Plaintiff's] driver's license showing his place of residence" and (2) Plaintiff pay the costs Defendants incurred in preparation for trial that it would have to incur

again to be prepared for trial in March. The Court permitted Defendants to file any objection to Plaintiff's showing no later than January 14, 2011.

On December 30, 2010, Plaintiff sent Defendants a copy of his driver's license. As proof of Plaintiff's load on his truck, he also sent Defendants a scanned Bill of Lading. On January 13, 2011, Defendants filed a Response (#66) to Plaintiff's Submission of Documents in which they object to Plaintiff's proof on the grounds that it was untimely and is insufficient to verify Plaintiff's statements. Defendants request the Court to deny Plaintiff's Motion to Continue. Plaintiff filed his Response (#70) on January 27, 2011, in which he includes additional proof of his residence and of the load on his truck on December 23, 2010.

The Court has carefully reviewed Defendants' objections and Plaintiff's documentation submitted in support of his Motion to Continue. On this record, the Court finds Plaintiff has timely provided sufficient evidence to show that he is a California resident; that he had a load on December 23, 2010, when his truck broke down; and that he had difficulty repairing his truck due to the timing of his breakdown. Thus, Plaintiff has provided sufficient evidence to satisfy the Court that Plaintiff had a valid excuse for missing trial.

Accordingly, the Court **GRANTS** Plaintiff's oral Motion to

Continue made at the hearing on December 27, 2010. The Court has already advised Plaintiff on the record and by Order of December 27, 2010, that this will be the final continuance of the trial date. Trial is set for March 9, 2011, at 9:00 a.m. in Courtroom 14A in Portland, Oregon.

IT IS SO ORDERED.

DATED this 4th day of February, 2011.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge